

77-19-203 Petition for inquiry as to competency to be executed -- Filing -- Contents -- Successive petitions.

- (1) If an inmate who has been sentenced to death is or becomes incompetent to be executed, a petition under Subsection (2) may be filed in the district court of the county where the inmate is confined.
- (2) The petition shall:
 - (a) contain a certificate stating that it is filed in good faith and on reasonable grounds to believe the inmate is incompetent to be executed; and
 - (b) contain a specific recital of the facts, observations, and conversations with the inmate that form the basis for the petition.
- (3) The petition may be based upon knowledge or information and belief and may be filed by the inmate alleged to be incompetent, legal counsel for the inmate, or by an attorney representing the state.
- (4) Before ruling on a petition filed by an inmate or his counsel alleging that the inmate is incompetent to be executed, the court shall give the state and the Department of Corrections an opportunity to respond to the allegations of incompetency.
- (5) If a petition is filed after an inmate has previously been found competent under either this chapter or under Title 77, Chapter 15, Inquiry into Sanity of Defendant, no further hearing on competency may be granted unless the successive petition:
 - (a) alleges with specificity a substantial change of circumstances subsequent to the previous determination of competency; and
 - (b) is sufficient to raise a significant question about the inmate's competency to be executed.

Enacted by Chapter 137, 2004 General Session